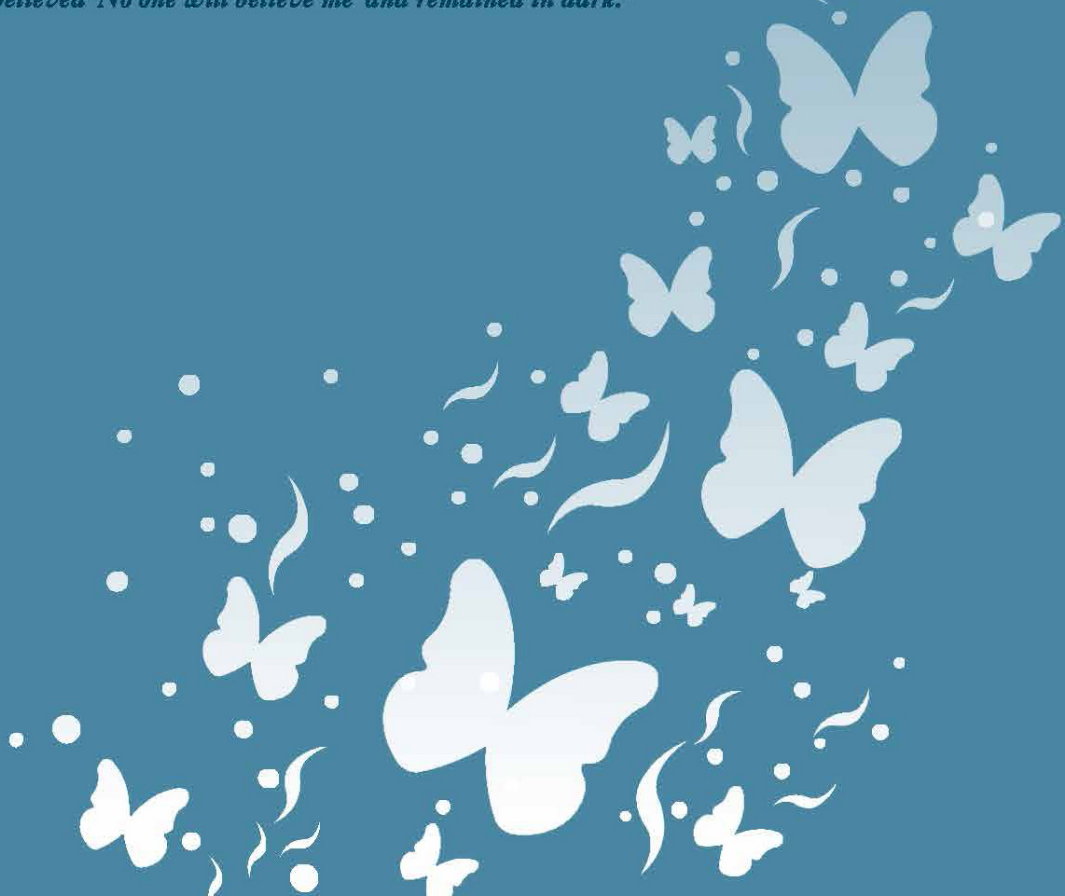


# Recounting Abuse, Reporting Abusers-

## Reflections from Survivors on Mandatory Reporting

*...didn't realise that I was being exploited.”*  
*...are that the child is saved from further abuse and the*  
*...t their abuse. The reason most of them don't come out is*  
*...ng of trust. To have someone you confided in to do the same without ones consent is worse.*  
*...ey do, fear of being stigmatized and possibly losing*  
*...hose providing care to report and violate the foremost principle of confidentiality.”*  
*...not afford to lose. So unless a better conducive*  
*...nd she told me to never go back to that*  
*...e justice on their abuse, making it mandatory for them,*  
*...eed. It made me feel it will be taken care of.”*  
*...not helpful.”*  
*...nyone...because i believed 'No one will believe me' and remained in dark.”*





# Contents

I.	Introduction	1
II.	Mandatory reporting in India	1
III.	Rationale and Objective	2
IV.	Methodology	3
V.	Findings	
	V.i. Impact of Disclosure	3
	V.ii. Dilemma of reporting	5
VI.	Conclusion	9
VII.	References	11
VIII.	Acknowledgement	11
IX.	Annexures	
	1. Interview Schedule for Survivors	12
	2. Respondents' Profile	13
	3. Relevant Sections of Protection of Children from Sexual Offences Act that lay down guidelines for mandatory reporting	22



## I. Introduction

“Mandatory reporting” in the context of child abuse refers to legislation that specifies who is required by law to report suspected cases of child abuse and neglect. A few years back, the International Society for Prevention of Child Abuse and Neglect sought information from 161 countries about matters including the presence of legislative or policy-based reporting duties (Daro, 2007). Of the 72 countries responding, 49 indicated the presence of such duties in law or policy, and 12 respondents indicated the presence of voluntary reporting by professionals. USA, Australia and Canada have strong and well established culture of mandated reporting. However, a range of other countries including Argentina, Sweden, Denmark, Finland, Israel, Kyrgyzstan, the Republic of Korea, Rwanda, Spain and Sri Lanka have been identified as adopting some form of mandatory reporting legislation. Nonetheless, voluntary reporting systems are considered to be much more common. Similarly, England, Scotland and Wales (whilst some variations are evident) share a propensity towards a similar system of voluntary reporting in which professional reporting obligations are emphasised through national and local guidance.

The concept of mandatory reporting originated in the USA and the first laws were drafted in 1963. This new law was enacted as a response to give due recognition to “battered child syndrome” through strong lobbying efforts. These laws were initially limited to requiring medical professionals to report suspected physical abuse inflicted by a child’s parent or caregiver (Kalichman et. al, 1993). The scope of this legislation in all states soon expanded in three ways, spurred in part by 1974 federal legislation (Child Abuse Prevention and Treatment Act [CAPTA]) that allocated funds to states on the basis of the parameters of their laws. First, state laws were amended to require members of additional professional groups to report suspicions of abuse and some states, in fact, required all citizens to make reports. Second, the types of reportable abuse were expanded to include not only physical abuse but sexual abuse, emotional or psychological abuse, and neglect. Third, the extent of harm caused, or suspected to have been caused, that is required to activate the reporting duty was required to be unqualified by expressions such as “serious harm,” and most statutes abandoned

such qualifications (Kalichman et. al, 1993). Since then, America, in particular, has evolved a strong and well established culture of mandated reporting and it has become an important feature in the child abuse laws of all of its 48 states, as well as the District of Columbia, and is considered to be a crucial element in the child protection system (CPS).

Given the various reporting models currently in existence, there are inherent difficulties in getting a holistic idea of mandatory reporting laws and understanding their impact in protecting children. In spite of this disadvantage, there are certain broad commonalities that can be recognized. Mandatory reporting has been claimed to be instrumental in reducing the barriers to reporting and hence facilitating reporting in general and early reporting in particular. It also sends out a strong message that child abuse is not acceptable. However, there have been several voices of dissent against mandatory reporting laws for reasons ranging from concerns around confidentiality to concerns about misreporting of cases (Barry, 2014; RTE News, 2014). This paper intends to make a very small contribution to a similar debate currently taking place in India due to the introduction of mandatory reporting in India through the Protection of Children from Sexual Offences (POCSO) Act.

## II. Mandatory Reporting in India

In the year 2012, the Government introduced the POCSO Act to combat the widespread sexual violence being perpetrated against children in the country. The implementation of the Act has been path breaking in bringing the topic of child sexual abuse into the much needed limelight. Although redressing sexual violence is covered in the Indian Penal Code (IPC), unlike the POCSO Act, it doesn’t specify in detail what constitutes sexual violence or define its different forms. The drafting of the Act is holistic and exhaustive and includes nearly all known forms of sexual abuse including non-contact forms such as showing pornography to a child (Clause 11(iii)) or using sexual graphic language around a child (Clause 11(i)). The Act gives an inclusive list of offences and categorizes them into “Penetrative Sexual Assault”, “Aggravated Penetrative Sexual Assault”,

“Sexual Assault”, “Aggravated Sexual Assault” and “Sexual Harassment” with separate characterisations and punishments for each category. The IPC also does not differentiate between an adult survivor and a child whereas in the POCSO Act, a “child” is clearly defined as “Any person below the age of 18 years” (Clause 2(d)). Exceptionally, the Act also entirely removes the burden of proof from the survivor and puts the entire onus on the accused.

The Act emphasises on the need to give the best interest of the child supreme importance at every stage of the judicial process. To this end, the Act provides for the creation of special courts for the trial of the accused (Clause 28) and attempts to put in place child friendly procedures for reporting, recording of evidence and investigation (Chapter VI). The Act is stringent in the sense that it accounts for not just instances of abuse but also makes a distinction between an offence and an “aggravated” offence wherein abuse is treated as “aggravated” if it has been perpetrated by someone in a position of trust or authority such as a police personnel or a public servant. Additionally, the punishments for each category of abuse are also different. For instance, in the case of penetrative sexual assault the punishment is not less than seven years and may extend to imprisonment for life (Clause 4), whereas for aggravated penetrative assault, the punishment is not less than ten years and may extend to imprisonment for life (Clause 6). The Act also makes the abetment of abuse a punishable offence (Clause 16) and extends the same punishment to abetting as it does to the committing of the offence (Clause 17). In doing so, the Act successfully accounts for the trafficking of children in the broad gamut of child sexual abuse.

Thus, the POCSO Act can definitely be considered an important and radical legal document, taking great steps towards prevention of and intervention in child sexual abuse. However, a very problematic clause of the Act is that of mandatory reporting of occurring and/or apprehended sexual offences against children under section 19, which makes failure to report punishable

under Section 21 of the Act. While many activists working in the field welcome the Act as a pioneering step towards directing social and judicial focus to the issue, most remain divided on the clause of reporting cases mandatorily<sup>1</sup>.

### **III. Rationale and Objective**

The legal codes of a country are intrinsically linked to the moral and social codes of its society. Since the act of reporting is a very personal one, we are not just looking at something that affects legal intervention against child sexual abuse at a larger, structural level, but also involves the ethical dilemma of the reporter and the feelings of the survivor. Thus, by making reporting of child sexual abuse cases mandatory, the POCSO Act is criminalizing an aspect that would include not only structural concerns but also moral and personal ones.

Given that the POCSO Act is the most significant piece of jurisdiction passed in favour of prevention of child sexual abuse, it is important to view this Clause and its impact through a critical lens. As an organization in this field, Arpan is also trying to understand how this impacts its outreach and intervention work. Since the primary benefactors of our work, and of the POCSO Act, are those surviving sexual abuse, we felt it was most important to assess their perception of the mandatory reporting clause.

In order to ascertain this information, we interviewed adult survivors of child sexual abuse. As people coping/having coped with the trauma of being abused as children, adult survivors are perhaps more able to make sense of the abuse and its impact than children undergoing/ having undergone the same. In the majority of cases, they are more able to use vocabulary to express their feelings around the abuse than children are. Additionally, they are also more likely to be capable of cognitively distancing themselves from the abuse and providing feedback.

---

<sup>1</sup> This was understood from discussions that took place in various platforms such as the Annual Stakeholders’ Conference on Child Sexual Abuse, meetings with Forum Against Child Sexual Exploitation and discussions with Women and Child Development Cell.



## IV. Methodology

In order to document narratives, an online form containing a qualitative, open ended set of questions was created and a call for interviews was posted on relevant discussion forums on various social media platforms. A major limitation of this method was that it restricted the sample group to only people with a certain level of affluence and education who could access social media forums and who could comprehend and respond to a questionnaire in English. However, this method, rather than seeking out survivors for personal interviews, gave people more choice and autonomy in coming forward to answer the questions only if they felt ready for it. It also ensured complete anonymity of the respondents since no personal details were required for the answering process.

At the beginning of the interview schedule, Arpan's definition of child sexual abuse<sup>2</sup> was stated, the POCSO Act and the Mandatory Reporting clause was briefly explained along with the purpose of the research. Additionally, a link to the entire Act was provided so that participants could get a better idea of the context of the Clause. Arpan's helpline number was also given to respondents, in case anyone wanted to reach out for therapy or had to deal with a trigger while answering the questionnaire. In all, 64 adult survivors participated in the research, of which 2 participants identified male and 62 identified female.

The study does not attempt to generalize or homogenize the experiences of all survivors based on the narratives of the participants. Recognizing the diversity of experiences is important to understand the uniqueness of each case of abuse. Despite some patterns that we see emerging, every survivor's manner of interpreting the experience of their abuse is distinctive to them.

---

2 Arpan's working definition of CHILD SEXUAL ABUSE is "any act using a child for the sexual gratification of a more powerful person"

## V. Findings<sup>3</sup>

### V.i. Impact of Disclosure

While there is a substantial body of work analyzing the act of disclosure among survivors of sexual assault, it is difficult to assess the exact determinants of what facilitates or prevents disclosures (Alaggia, 2010). Studies in this regard need to be mostly qualitative in order to make space for the unique, subjective conditions under which survivors disclose abuse. A few factors that can be said to affect the decision to disclose are the immediate environment of the child, existing social norms and stigmas, closeness to trusted adults, nature of abuse and so on (Goodman-Brown et. al., 2003). Most of the respondents of this research were not able to disclose immediately, during or soon after the abuse<sup>4</sup>. This time lapse that takes place between the abuse and the disclosure is noteworthy. For most survivors, it took time to make sense of what had happened, to figure out the vocabulary to describe the event and to work up the courage to talk to someone. Disclosure, then, becomes a factor of much consideration and deliberation in the life of a survivor.

#### V.i.a. Making the Disclosure

Guilt and shame were two very common determinants that were obstructions to disclosure. While one could sense the feelings of guilt and shame in almost all the narratives, eight of the respondents explicitly stated that they were sure the abuse was their fault.

*"I felt dirty, thought I was wrong mostly, thought people will scold me and beat me up"* -Respondent 17

*"When I grew up I was so filled with shame as the victim is always blamed. So this agony has always chased me."*  
-Respondent 25

*"I was ashamed and afraid to tell anyone ... I am now of 18 and I think it is useless to tell it now. If I will tell my parents now, it would be me who will be blamed."*

---

3 Spelling, grammar and syntax errors in the narratives have been left as is so as to not tamper with the narratives. Minor corrections of spacing and capitalization have been made to allow better readability.

4 refer to respondents' profile

-Respondent 30

For some, there was an innate lack of a trusted support system. They didn't believe that they could get help if they asked for it.

*"I was at hostel...alone..Crying..broken.I never told to anyone...because i believed 'No one will believe me' and remained in dark".* -Respondent 2

*"They wouldn't want to understand, and hold me equally guilty, may be even more guilty than the person abusing me."* -Respondent 8

*"[I didn't tell my parents] because of their bigotry"*  
-Respondent 10

Some respondents felt they couldn't disclose at the time of abuse simply because they were oblivious to the significance of the abuse, or enjoyed the abuse at the time of its occurrence. Some of these respondents used words like "guilty" and "stupid" to express their perception of themselves after the abuse.

*"I did not know the gravity of what had happened to me. I only knew that I was really uncomfortable and wanted to get as far away from there as I could. I did not know what and how to tell my mother or my father, the kind of language I could use to describe what had actually happened."* -Respondent 9

*"I just didn't realise that I was being exploited."*  
-Respondent 24

*"Actually, I feel guilty because I haven't resisted to it. In fact, I think I have somehow helped him in doing so."*  
-Respondent 30

Some others disclosed much later because they were either in denial about what had happened or had repressed the memories so deeply that they had forgotten about the abuse till much later.

*"Initial I was in sort of denial, i never realized what it was."* -Respondent 18

*"I wasnt able to tell anybody else because i had decided that if i didnt talk or think about it, it almost never*

*happened. it was just a theory . if you were the only person present (and one other person) then at any point in your life you can decide it was just something you imagined."*

-Respondent 27

*"Did not remember abuse until the age of 17 when my brother brought it up (he was present during much of the abuse)."* Respondent 35

Finally, the nature of the abuser also played a major role in the decision of disclosing. This not only includes the relationship shared with the abuser but also the things that were told by the abuser that added to the feelings of guilt or fear in the survivor.

*"He was my 1st cousin brother who was well trusted by entire family and if i said anything no one would have believed me."* -Respondent 3

*"I was frustrated and angry of the high status that bastard enjoys in my extended family. Finally this anger grew to such limits that I burst out"* -Respondent 18

*"Because abuser was my cousin and I did not feel think ruining family relations."* -Respondent 21

Thus, we find that ability and decision to disclose about the abuse depends on a variety of reasons.

#### V.i.b Coping with the Response

While the disclosure itself is a difficult and deliberate process, the acknowledging of and coping with the reactions to such disclosures are equally essential for the survivors of child sexual abuse. From the narratives, one major pattern that emerges is the impact that the act of disclosure and the immediate reaction to it has on the healing process, the perception of abuse and, in some cases, the perception of the survivor in their own eyes. The reaction of the person disclosed to is instrumental in the thoughts and actions of the survivor that follow. Among all the respondents, only 17 received an unambiguous, positive and supportive response upon disclosure. Amongst these, 5 revealed it to their close friends, 1 to their therapist, 1 in a support group, 2 to their partners, 2 to siblings who had also undergone abuse, 3 to their entire families and 3 to their mothers. The responses ranged from simply validating



and re-instating a sense of trust to severing ties with the abuser to reporting to the police.

*“I told my mother. She listened. And she told me to never go back to that neighbour’s house again, to which I agreed. It made me feel it will be taken care of.”* -Respondent 4

*“My girlfriend is also a survivor of child sex abuse, and she helped me to trust my brother and mother. They believed me, my girlfriend understands me and help me cope with it”* -Respondent 18

*“My mom and my sisters are really trustworthy as they care for me a lot and my family is very liberal. They were very supportive and they hugged me and we broke all ties with the abuser. Their reaction was a boon for me, finally I consider myself a survivor rather than a victim. I now have moved on from the depression attached with the traumatic experience.”* -Respondent 38

For those who faced ambiguous or hostile reactions, the healing process was made much more difficult.

*“I knew she [mother] wouldn’t think I did something wrong. She was shocked and asked me many questions about it. She told me not to talk to the family again. But also told me not to tell anyone else about it. I felt really scared, I do not know why.”* -Respondent 7

*“I needed emotional and physical help. That person [that I disclosed to] was my mother and the obvious choice. She dismissed me, shamed me, and told other family members (amongst other things) that she “wouldn’t be surprised if everyone hadn’t had a go of [me]”. It made me feel utterly worthless.”* -Respondent 20

*“I assumed they [parents] would protect me from it. They brushed it off by explaining how I was misunderstanding what was happening, and it was nothing serious. The reaction made me feel desperate and helpless. I had no more hope from anyone else.”* -Respondent 31

*“The reaction was not comforting at all. She said I shouldn’t disclose this to anyone because it would stigmatize my future prospects. The effect was she instilled fear in me so that I wouldn’t disclose it to anyone. I lived with the trauma for a long time and couldn’t muster my courage to reveal it to anyone until I reached 22. My reading*

*helped me disclose it to people.”* -Respondent 44

*“She went and spoke in private to my abuser, who was also my elder brother, who stopped. She considered the matter over and done with. I blocked the memories thereafter. When I started getting flashbacks, she would continually minimize the enormity of what happened in hopes that I would keep quiet and stop thinking or talking about it, even though my brother was around and I was getting triggered. To date she lives in denial.”* -Respondent 60

*“She wanted me to say it again in front of my abuser. Whether it was because she did not believe me or because she wanted to judge from the reaction of my abuser, I do not know. It made me feel traumatised.”* -Respondent 61

The range of these responses show that the perceived hostility in the responses need not always be overt or explicit. Feelings of betrayal or hurt can arise simply from the trusted person not saying/doing the right thing at the right time. It is important to acknowledge the delicacy of this subject matter and the subjective perceptions on the same, since disclosure of the abuse by the child is an essential part of the legal procedures that follow. When reporting is made into a mandate, the child is going to have to, at some point, go through the process of disclosure once more. While the POCSO Act provides for child friendly procedures, if a child is made to “disclose” when they are not ready, or to people they do not want to talk to, or when they are still coping with and carrying forward the impact of the first level disclosure, the process can have adverse effects on the child.

#### V.ii Dilemma of Reporting

The reporting of abuse is a space of great ethical dilemma for most of the respondents. While it is widely acknowledged that reporting and subsequent conviction does, to an extent, help with the prevention of abuse at a larger level, on a personal level it means the child has to revisit the trauma and deal with the consequences of the revelation. Nevertheless, the narratives once again emphasized how ideas around reporting would change from case to case even for the same person. For instance, participants were asked

firstly, if they would report their abuse, and secondly if their stance would change if their relationship with the abuser were different. To this, some participants said that the relationship with the abuser would have an effect on their decision.

*“I was abused by a cousin. I felt shock and disgust more than anger. I was extremely hurt by the fact that someone I trusted and respected did such a thing to me. If my molester was a stranger, I would have felt angry and my reaction would have been different.”* -Respondent 12

*“If the abuser was not my relative, I would have reported to my parents immediately. I will surely report if a child confided to me.”* -Respondent 21

*“Although due to my relationship to my abuser I felt I should rather keep quiet than speak up, if my circumstances were different, I would have spoken up.”*  
-Respondent 22

#### V.ii.a Narratives in Favour of Mandatory Reporting

Of the 64 participants, 24 (37.5%) said they agreed with mandatory reporting. The reasons for wanting reporting to be mandatory was primarily to regain a sense of control by shifting the shame, guilt and blame on to the abuser when these feelings had been projected on to them instead by a culture of victim blaming.

*“The day i can c the abuser behind the lock up..punished by d law...that day may be i would achieve “my smile and confidence” back.”* -Respondent 2

*“If my abuse had been reported to the authorities at the time it was happening, it may have prevented the systematic abuse of other young girls by the same man, who, I might add, has NEVER been held to account for his actions.”* -Respondent 21

I think mandatory reporting should be in place since this would ensure that the child is saved from further abuse and the perpetrator of the crime is reported and punished. – Respondent 22

Additionally, mandatory reporting would also put the onus of ensuring justice for the survivor on the responsible adult stakeholders. Thus, even if they did

not believe the child or were dismissive of the child’s disclosure, they would be liable by law to report the abuser. This, for a lot of the participants was a very important aspect of mandatory reporting. There was also the belief that mandatory reporting would make adults primarily responsible for holding the perpetrator accountable. So where the child would feel scared to take action, the adult would be forced to do it on the child’s behalf.

*“The abuser was a family member. So i would have been scared to get them reported. it would be better if the report was done without my consent, as at that age i wasnt capable of making the right decisions and was fear driven. I would not report even if the abuser was someone i didnt have any family relation with,because i was very scared and had no one to support me. if my family would have understood me and stood by me, i would probably report the abuse.”* -Respondent 32

*“For the longest time child abuse has been brushed under the carpet. It was not even looked as abuse by many societies in the Indian context. Parents and well wishers believe that brushing the child’s horrifying experience under the carpet will protect them from the malice and presumptions that society has towards victims of sexual abuse. But it is often overlooked that the child who is at an impressionable age may develop feelings of guilt and embarrassment.”* -Respondent 41

*“It is mandatory because a child has very little knowledge of right and wrong. And not everyone has the courage to speak up. Mandatory reporting may cause embarrassment to victim in the short run specially if its a family member but in the longer run it will of benefit.”*  
-Respondent 52

Finally, as can also be seen in the previous excerpts, there was also the understanding that mandatory reporting would help prevent the abuse of other children by the same abuser.

*“The reason these things need to be reported is to primarily prevent the abuser from abusing another little one and giving them a sore and jilting experience that could haunt and harm them their entire life the way it does me.”* -Respondent 9

*“He abused his own sister too. I feel if he had been reported he wouldn’t have been able to hurt more girls like I’m sure he has.” -Respondent 37*

#### V.ii.b. Narratives Against Mandatory Reporting

A majority of 40 (62.5%) respondents strongly stated that they would never be okay with mandatory reporting. Most participants described their social environments as being “patriarchal”, “misogynistic” or “insensitive” and were wary of the stigma and blame that they would have to deal with if their abuse is exposed.

*“If I were 8 or 9 years old, and I knew my mother would report the matter to the police, I think I would be utterly scared about talking about it to her. Simply because, I remember, that even at that time, I was never sure about how ‘bad’ I had been, or how ‘bad’ Lucky (the abuser) [name changed] had been. So I wouldn’t know what ‘complaining to the police’ would lead to. And it would scare me enough to not want the story to get out to anyone, let alone my mother.” -Respondent 7*

*“I don’t think it should be forced upon the victim to report their abuse. The reason most of them don’t come out is because of poor availability of social support once they do, fear of being stigmatized and possibly losing even existing supportive relations that ze<sup>5</sup> might not afford to lose. So unless a better conducive environment is created for victims to confidently pursue justice on their abuse, making it mandatory for them to report it is not helpful.” -Respondent 13*

*“I’m a male, and its almost impossible to make anyone believe that I had been abused by another man. They don’t really believe even if I try to say it, instead they make fun of it. I once told someone about my experience and she laughed at it telling me that I probably would have enjoyed it.” -Respondent 15*

For some others, it was more important to move on and focus on healing themselves rather than putting their abusers behind bars.

*“I wouldve hated anybody who reported it to the police because it would make it too real, too much a part of*

*my life. instead of just being in my head it would be a physical manifestation of my problem, with the police and someone getting into trouble. i prefer it to be something i can lose through my memory” -Respondent 27*

*“Now the person is of 80 nd also paralyzed Now no need to report against him. Id rather move on” -Respondent 47*

*“Sometimes the situation is complicated. The first reaction isn’t of hatred, it is confusion and helplessness. All you want is someone to listen to you.” -Respondent 55*

*“I do not think it should be made compulsory to report the incident of an abuse to the police. There are many ways of dealing with such experiences. While I may confront the abuser later in life, I have forgiven him and do not wish that he should be reported to the police.” -Respondent 62*

The most important factor against mandatory reporting seemed to be that faith in the trusted adult would be shaken if the reporting had been done without the consent of the survivor. Sam Warner talks about structural similarities that can be drawn between the process of abuse and that of therapy in the way that it requires one to gain the trust of the child before proceeding with the process (Warner, 2001). If we are to draw a parallel between this process and that of a child disclosing abuse to any adult out of trust, the breaking of that trust would be seen as mirroring, or continuing, the violation inflicted by the perpetrator.

*“I feel this is an absolutely problematic clause. Children confide in you trusting it would remain with you. Strategies of negotiation can be non legal in nature. One cannot reduce something so complex to such difficult conditions.” -Respondent 10*

*“Child Sexual Abuse involves breaking of trust. To have someone you confided in to do the same without ones consent is worse. It cannot be incumbent upon those providing care to report and violate the foremost principle of confidentiality.” -Respondent 34*

*“When we come out to a person about our abuse a lot of*

trust is involved in it. the clause of mandatory reporting looks at the whole issue in a very narrow perspective. Our society hasn't evolved into one where there is a lot of awareness of sexual abuse and how sensitive the issue is." -Respondent 38

Thus, this breaking of trust was seen as a reminder of the faith that was misused at the time of abuse. This line of thought also creates a great empathetic space wherein all 40 participants who are against mandatory reporting, and 24 participants who are pro mandatory reporting categorically stated that they would not report without consent if another child disclosed a case of ongoing or past abuse to them. However, most stated that if reporting was the only way to stop the abuse, they would consider it; but it would remain a last resort that would be tried only after other forms of help, such as including the family, contacting NGOs, talking to therapists, have failed.

*"If a child reported abuse to me, my immediate instinctive response would be to look for at least one adult in its proximity a) to whom it may be comfortable talking about it b) who would have an active hand in altering the circumstances under which the child faces abuse (change school bus times, intervene at home or at school, change school if it wants a fresh start (I did), etc.) I would want to report it to the police and thereby make it public only after ascertaining the child had enough of a distance and dissociation from it. If that distance isn't possible, at the cost of the abuser probably staying at large, I wouldn't be too easy about reporting charges. What followed would probably scar the child equally if not more than the abuse."* -Respondent 8

*"If some other child reported such an incident to me, I am not sure if I would report it to the police but I would do all in my power to ensure that the child is not molested again. I am not comfortable about the idea of mandatory reporting because I believe the police is not equipped to even understand, let alone deal with, the nuances of child sexual abuse, In such a case, I, with the limited power that adulthood gives me, would want to tackle the issue on my own or involve a few people I can trust."* -Respondent 11

*"If I know about another child being abused, I will do everything in my power to prevent that from happening*

*(confronting the abuser, speaking to the child). But I will not report it to the police unless the child himself/herself feels that the incident should be reported."* -Respondent 62

#### V.ii.c. Perception of Legal Intervention

The participants expressed their opinion on legal intervention very overtly. All participants unanimously stated that they would not be comfortable talking to the police. Everyone shared the belief that the police were not equipped to handle a case of child sexual abuse in an empathetic and sensitive manner. This belief is not entirely unfounded since studies show that justice systems often replicate the prejudices and biases of the larger society, such as race, gender and caste (Guverich 2009, Mayell, 2003). In 2013, Human Rights Watch published a report which documented cases of child sexual abuse across different contexts. The report found that the way the justice system functions is a major impediment to reporting. According to the report, many survivors who do report are "mistreated a second time by a criminal justice system that often does not want to hear or believe their accounts or take serious action against the perpetrators" (pp 7). The report also establishes that most police officers lack the skill, training and sensitivity to handle cases of sexual violence.

Another study carried out among health care workers looks at what different prevention and intervention strategies are preferred by them. Strategies rated most effective were mental health treatment for abusive parents, improved public school education and staffing, mental health treatment for abused children and increased availability of day care including drop-in centres, in that order. The only three items that were rated less than effective were increased welfare payments for families with young children, stricter laws and harsher punishment for abusive parents and increased legal ways for the state to gain custody in cases of abuse- thus reaffirming the lack of faith in legal and judicial institutions (Davis et al., 2002).

Although, this perception among the respondents of this study is, in most cases, not based on a personal experience but rather on popular viewpoint, this crippling sense of anxiety around the police does affect



the decision to seek legal help in matters of abuse.

*“I think I would be uncomfortable. I would like a close friend, who I feel comfortable with, by my side. I would feel more at ease with a warm person, like a therapist or an expert, who could understand the situation responsibly. Patriarchal smug-looking police officers are a strict no-no.”* -Respondent 9

*“Nothing should be mandatory. It should be ‘willingness to report’. We are not yet at the stage where mandatory reporting can be made national. Our police and reporting procedures are still very unfriendly and gender insensitive. I wish for a legal, transparent, open, friendly system. Get that in order and you won’t even need ‘mandatory’ anymore.”* -Respondent 14

*“Considering the current police system i don’t feel any child would be comfortable reporting it. Now that i am old enough and a little confident i could face them now but can’t even imagine interacting with a hostile person as a kid who has been molested for so long.”* -Respondent 17

It is evident, therefore, that much work is left to be done not only around sensitisation of the police but also around spreading awareness of the work and training that the police undergo to this end. While the POCSO Act does provide for child friendly investigations, lack of awareness about the conditions of the Act and fear of the police system is a deterrent to reporting.

## **VI. Conclusion**

Arpan, like many other organizations in the field, has always maintained a child centric approach in its work. This research was important to us to gain an understanding as to whether or not mandatory reporting would work to the advantage of our primary benefactors: children and adult survivors of child sexual abuse. From our work, and from the responses to this research, we have learnt that the issue of child sexual abuse is a multi-faceted, multi layered and systemic one that cannot be addressed with a one-dimensional approach such as mandatory reporting. While we encourage reporting and hope that the rate of reporting and convictions will rise in the near future, we cannot have a system in place that does so at the cost of the survivors themselves.

To address the prevalence of child sexual abuse and the apathy and silence that surrounds it, we need to intervene at various levels. According to theorist, Finkelhor, four preconditions exist for sexual abuse to be perpetrated on children:

- a motivated perpetrator
- an ability to overcome internal inhibitions towards sexual abuse
- an ability to overcome external barriers to sexual abuse
- a victim unable to resist the abuse (Finkelhor, 1984)

Arpan strongly believes that prevention work is essential in combating the issue of child sexual abuse. However, a single prevention strategy cannot address all four preconditions. Consistent with the work of Deborah Daro, we believe that an effective intervention system should not only teach a child how to resist inappropriate sexual interactions, but should also address the conditions that lead an adult to consider the use of children for sexual gratification and should strengthen the environmental elements that discourage abuse. Thus, prevention programs must work in a three pronged manner:

the primary prevention level, which would involve targeting services to the general population with the objective of stopping any occurrence the secondary level that would target services to high risk groups in order to avoid the continued spread of problem the tertiary level which would involve targeting services to known perpetrators or victims with the intent of preventing new incidents (Daro, 1994).

Thus, prevention programs are successful when they not only target children themselves, but also their immediate and extended support systems and the cultural context they exist within. The rise in the awareness of the issue, the skills needed to address it and the knowledge of interventions available would probably be more likely to cause an increase in the rate of reporting than an imposition of the mandate.

Additionally, prevention programs would also ease the access to other forms of intervention like therapeutic intervention. Arpan treats the mental health of child and adult survivors as a very high priority. Sustained therapeutic work is helpful to survivors in the long

run since it provides a space for them to disclose and interpret their experience of abuse in a non judgmental and non threatening manner. Subsequently, one can hope that this process will give survivors the coping skills that could help them to talk about their abuse within their own trusted circles and additionally, give them the confidence to report abuse if they wish to do so.

From the narratives, it is evident that each case of abuse takes place in its own specific context. Therefore, reporting cannot be made mandatory as a blanket law without taking into account these specificities. The decision to report is contextual and almost entirely based on the environment, both immediate and social, of the survivor. If the primary concern is to reduce incidents of child sexual abuse, then the approach cannot stop at legal redress and has to extend to a more holistic and targeted approach towards prevention and intervention in cases of child sexual abuse. Awareness building among and sensitisation of the police force, doctors, teachers, parents and other responsible stakeholders, safety education programmes with children and greater emphasis on therapeutic intervention with survivors and their trusted adults needs to go hand in hand with the law.

Ultimately, the key focus must be on the child and what is best for them. If the presence of a mandatory reporting clause prevents survivors from seeking help or makes it difficult for them to disclose to a trusted adult, then this form of reporting only becomes a problematic compromise.



## VII. References

1. Alaggia, Ramona. "An Ecological Analysis of Child Sexual Abuse Disclosure: Considerations for Child and Adolescent Mental Health." *Journal of Canadian Academy of Child and Adolescent Psychology* 19.1 (2010): 32-39. 1 Feb. 2010. Web. 1 Mar. 2014.
2. Barry, Matt. "Mandatory Reporting Sparks Debate." *The Knox Student*. N.p., 8 Apr. 2014. Web. 01 May. 2014.
3. Besharov, Douglas J. "Responding to Child Sexual Abuse: The Need for a Balanced Approach". *The Future of Children*. Vol. 4, No. 2, Sexual Abuse of Children (1994), pp. 135-155.
4. Daro , Deborah A. "Prevention of Child Sexual Abuse". *The Future of Children*. Vol. 4, No. 2(1994), pp. 198-223.
5. Daro, Deborah. *Confronting Child Abuse: Research for Effective Program Design*. New York: Free Press, 2007.
6. Davis, Melinda F., William N. Marshall Jr. and Ellen Price . "Attitudes toward Child Abuse Preventions". *Journal of the Arizona-Nevada Academy of Science*. Vol. 34, No. 2(2002), pp. 112-119.
7. Finkelhor, David. *Child Sexual Abuse: New Theory and Research*. New York: Free Press, 1984. Print.
8. Goodman-Brown, Tina B., Robin S. Edelsten, Gail S. Goodman, David P.H Jones, and David S. Gordon. "Why Children Tell: A Model of Disclosure of Child Sexual Abuse." *Child Abuse and Neglect* 27 (2003): 525-40. Web. 23 Feb. 2014.
9. Government of India."Protection of Children from Sexual Offences Act". Ministry of Law and Justice. New Delhi, 2012.
10. Gurevich, Liena. "The Reproduction of Race/Class/Gender Discrimination by Legal Discourses: Trials of Parents for Child Abuse and Homicide". *International Review of Modern Sociology*. Vol. 35, No. 1(2009), pp. 63-94.
11. Human Rights Watch. *Breaking the Silence: Child Sexual Abuse in India*. United States of America, 2013
12. Kalichman , Seth C. and Cheryl L. Brosig. "Practicing Psychologists' Interpretations of and Compliance with Child Abuse Reporting Laws". *Law and Human Behavior*. Vol. 17, No. 1(1993),pp. 83-93.
13. Mayell, Hillary. "India's "Untouchables" Face Violence, Discrimination." *National Geographic*. National Geographic Society, 2 June 2003. Web. 31 May 2014.
14. "Mandatory Reporting Will See System 'struggle'" *RTE.ie*. N.p., 15 Apr. 2014. Web. 01 May 2014.
15. Warner, Sam. "Disrupting Identity through Visible Therapy: A Feminist Post-Structuralist Approach to Working with Women Who Have Experienced Child Sexual Abuse". *Feminist Review*.No. 68. 2001.

## VIII. Acknowledgement

We would like to thank Raahi Adhya of Advanced Centre for Women's Studies, Tata Institute of Social Sciences, for her contribution towards this research.

## **Annexure 1: Interview schedule for Survivors**

1. What was your age at the time of abuse?
2. Were you able to tell someone about it?
3. Do you feel that your telling/not telling impacted the way you coped with the abuse? If yes, how?
4. If you were able to tell someone about it,
  - a. what made you feel the need to tell someone?
  - b. what prompted you to trust that person?
  - c. how did they react?
  - d. how did their reaction make you feel?
5. If you were not able to tell, why did you feel you could not tell anyone?
6. Are you aware of the POCSO Act enacted by the Government? Yes/No
7. Under the new law, one has to mandatorily report (mandatory means compulsory) to the police if one has knowledge of any child being sexually abused/or have the probability of being sexually abused. This would involve any adult friend, family member, NGO worker, counselor, teacher or doctor that you would confide to. Would you feel comfortable if you knew that you, or the person you talked about your abuse to, would have to compulsorily report the abuser to the police?

If yes,  
what do you feel mandatory reporting of your abuse would achieve? Would you feel differently if the reporting had been done without your consent or despite you refusing your consent? Would you feel differently about this if your relationship with the abuser was different? If some other child confided to you about their history of abuse, would you feel comfortable about reporting their abuse as well?

If no,  
why don't you feel comfortable with the idea of mandatory reporting? Would you feel differently about this, if your relationship with the abuser was different? If some other child confided to you about their history of abuse, would you feel comfortable about reporting their abuse?
8. How do you feel about having to interact with the police about your abuse during your investigation? Are there any other methods of intervention or support that you think would be helpful and/or relevant to your situation?
9. Are there any concerns regarding mandatory reporting that you would like to share with us?

## Annexure 2: Respondents' Profile

Sr. No.	Gender	Age at the time of abuse	Timeline of disclosure	Reason for with holding disclosure	Person disclosed to	Reaction to disclosure	Supports mandatory reporting	Comfortable with police being the first level intervention
1	F	12	-	Did not know abuse was wrong			No	No
2	F	6	Didn't tell "for years"		Mother	Silence. No support given	Yes	No
3	F	7	Didn't tell	Thought the abuse was "normal"			No	No
4	F	3	Told soon after		Mother	Supportive. Stopped interactions with abuser	No	No
5	F	12	Told "after a year"	Didn't trust parents	Friend		Yes	No
6	F	5	Didn't disclose "until very recently"	Too scared since abuser was a family member	Close friends		No	No
7	F	7	Immediately		Mother	Stopped interactions with the abuser	No	No
8	F	10	Didn't tell	Nobody would "want to understand"			No	No
9	F	7	Didn't tell	Didn't know how to talk about it			Yes	No
10	F	4	as an adult	"Because of the bigotry of parents"	at a workshop	Reacted "non-judgmentally". "The feeling was affirming"	No	No

Sr. No.	Gender	Age at the time of abuse	Timeline of disclosure	Reason for withholding disclosure	Person disclosed to	Reaction to disclosure	Supports mandatory reporting	Comfortable with police being the first level intervention
11	F	13		Was too "ashamed"			No	No
12	F	10	Immediately		Mother	Reacted with love and was supportive	Yes	No
13	F	14	"after many months"	Didn't know how to talk about it	Cousin (also a survivor)	Empathetic and supportive	No	No
14	F	13	Soon after		Sister	With "Love and support"	No	No
15	M	14	Didn't tell	Too embarrassed, hurt, ashamed and scared			No	No
16	F	8	Didn't tell	"Believed it was my fault"			No	No
17	F	7 to 12	Told when 18	Felt "dirty". Felt "threatened" since abuser was a relative			Yes	No
18	M	3 to 7	"Much later" as an adult	Was in denial. Was too upset and angry	Girlfriend (also a survivor)	Accepting and loving	Yes	No
19	F	13	Didn't tell	Abuser was a close relative. "They will not believe me"			Yes	No

Sr. No.	Gender	Age at the time of abuse	Timeline of disclosure	Reason for withholding disclosure	Person disclosed to	Reaction to disclosure	Supports mandatory reporting	Comfortable with police being the first level intervention
20	F	12	Immediately		Mother	Aggressive and dismissive. "shamed me and made me feel utterly worthless"	Yes	No
21	F	6		Abuser was a cousin. Didn't want him to be in trouble			Yes	No
22	F	8	At 18 years of age	Didn't feel brave enough	Confessed On National Television	People around said "kyazaro-orat this bolneki?" (What was the need to talk about this?)	Yes	No
23	F	5 to 9	Years later upon entering a relationship	Didn't understand what was happening	Boyfriend	Loving and "understanding"	No	No
24	F	5	Didn't tell	Didn't realize what was happening			Yes	No
25	F	10	"A year ago" (2013)	Too young to understand what had happened. "Blamed myself"	Best Friend		Yes	No

Sr. No.	Gender	Age at the time of abuse	Timeline of disclosure	Reason for withholding disclosure	Person disclosed to	Reaction to disclosure	Supports mandatory reporting	Comfortable with police being the first level intervention
26	F	9	Much later, while in college	Had repressed all memories of the incident	Hostel mate	Was kind and accepting	Yes	No
27	F	8	Later, "as a teenager"	Decided to deny and ignore the incident	Therapist	Reacted in an "easy going way"	No	No
28	F	10		Was scared since the abuser was a relative	Mother	Reacted with shock, and later indifference	No	No
29	F	5	Didn't tell	Was threatened by abuser			No	No
30	F	7	Didn't tell	Was warned by abuser. Was too ashamed, guilty and scared			Yes	No
31	F	6	Immediately		Parent	Was dismissed and told that "it was nothing serious"	Yes	No
32	F	5	Much later				Yes	No
33	F	11	Didn't tell	"Too young to understand what was happening". "Too scared"			No	No
34	F	5	Didn't tell	Didn't want to scare parents			No	No



Sr. No.	Gender	Age at the time of abuse	Timeline of disclosure	Reason for withholding disclosure	Person disclosed to	Reaction to disclosure	Supports mandatory reporting	Comfortable with police being the first level intervention
35	F	3 to 5	At age 17	Didn't remember till brother brought it up	Brother (abused by the same person)	Comforting. Was made to feel "relieved"	No	No
36	F	10	Didn't tell	Didn't understand what was happening			No	No
37	F	8	At age 16	Didn't understand what had happened till then	Best friend	Supportive, comforting	Yes	No
38	F	5	After watching episode on	Was scared since the abuser was a close relative	Mother and sister	Supported. comforted	No	No
39	F	8	Didn't tell	Too scared			Yes	No
40	F	12	"after 10 years"	Scared since abuser was a close relative	Mother	Made me feel "reassured"	No	No
41	F	10 to 11	Didn't tell	Felt "guilty" and "dirty". Repressed memory			Yes	No
42	F	4-11	Didn't tell. Perpetrator was caught in the act and handed over to the police	Was too young to know what was happening and later was too scared			No	No

Sr. No.	Gender	Age at the time of abuse	Timeline of disclosure	Reason for withholding disclosure	Person disclosed to	Reaction to disclosure	Supports mandatory reporting	Comfortable with police being the first level intervention
43	F	11	“Long after”	Was too confused.	Friends	Supportive. Previously, mother had reacted negatively to disclosure	No	No
44	F	5 to 11	At age 11	Was too scared	Mother	Reacted with shock. Was told to “not talk about it to anyone”. Reinforced the feelings of shame and guilt.	No	No
45	F	8	Soon after		Parents	They were more anxious to catch the perpetrator and didn’t pay attention to the feelings and wishes of the child.	No	No
46	F	10	“Much later”	Was too scared	Mother	Reacted with anger and shock that made her feel “embarrassed”	No	No
47	F	15	Didn’t tell	The abuser was old and is now paralyzed. Didn’t want him in trouble			No	No

Sr. No.	Gender	Age at the time of abuse	Timeline of disclosure	Reason for withholding disclosure	Person disclosed to	Reaction to disclosure	Supports mandatory reporting	Comfortable with police being the first level intervention
48	F	10	Didn't tell	Didn't know telling was an option			No	No
49	F	7 to 14	"Years after the abuse had stopped"	Didn't think anyone would believe since the abuser was a family member	Mother	Reacted with indifference. Was told to never to talk about it to anyone	No	No
50	F	7 to 8	"When I wanted the abuse to end"	Was scared and confused since abuser was "like a father figure"	Mother	Reacted with shock and guilt. Was told to not talk about it to anyone	No	No
51	F	8	Didn't tell	Didn't want to put abuser in trouble since abuser was a cousin			No	No
52	F	5 to 6	Didn't tell	Still confused about what has happened.			Yes	No
53	F	8	Told "as a child"		Grand-mother	Was "compassionate". Stopped all interactions with the abuser.	No	No
54	F	3	Didn't tell	Felt that no one would believe.			No	No

Sr. No.	Gender	Age at the time of abuse	Timeline of disclosure	Reason for withholding disclosure	Person disclosed to	Reaction to disclosure	Supports mandatory reporting	Comfortable with police being the first level intervention
55	F	5 to 7	Didn't tell	Didn't understand what had happened. Too scared since abuser was a close relative			No	No
56	F	6	Told at 18 years of age	Was too depressed to talk about it	Best friend	Was shocked but supportive	Yes	No
57	F	5 to 7	Didn't tell	Was too scared and confused since abuser was "like a big brother"			No	No
58	F	8	Didn't tell	Knew this topic was a "taboo"			Yes	No
59	F	16	At the time of abuse.	Was scared since abuser was the step father	Mother	Was dismissive and indifferent	Yes	No
60	F	6	Much later	Didn't want to hurt the abuser who was also the elder brother	Mother	Told abuser to stop but also ignored the incident after that	No	No
61	F	8	Soon after the abuse		Mother	Was very angry. Confronted the abuser in front of the child making the child feel very "traumatized"	Yes	No

Sr. No.	Gender	Age at the time of abuse	Timeline of disclosure	Reason for withholding disclosure	Person disclosed to	Reaction to disclosure	Supports mandatory reporting	Comfortable with police being the first level intervention
62	F	8 to 10	Didn't tell	Didn't want to put abuser into trouble since he was a cousin			No	No
63	F	11	After the abuse		parents	Indifference since they already knew the man to be an abuser	No	No
64	F	14	Didn't tell	Abuser was a member of the family			No	No

### **Annexure 3: Sections of the Protection of Children from Sexual Offences Act that lay down guidelines for mandatory reporting.**

#### **19. Reporting of offences.-**

- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any person (including the child), who has apprehension that an offence under this Act is likely to be committed or has knowledge that such an offence has been committed, he shall provide such information to,
  - (a) the Special Juvenile Police Unit; or
  - (b) the local police.
- (2) Every report given under sub-section (1) shall be
  - (a) ascribed an entry number and recorded in writing;
  - (b) be read over to the informant;
  - (c) shall be entered in a book to be kept by the Police Unit.
- (3) Where the report under sub-section (1) is given by a child, the same shall be recorded under sub-section (2) in a simple language so that the child understands contents being recorded.
- (4) In case contents are being recorded in the language not understood by the child or wherever it is deemed necessary, a translator or an interpreter, having such qualifications, experience and on payment of such fees as may be prescribed, shall be provided to the child if he fails to understand the same.
- (5) Where the Special Juvenile Police Unit or local police is satisfied that the child against whom an offence has been committed is in need of care and protection, then, it shall, after recording the reasons in writing, make immediate arrangement to give him such care and protection (including admitting the child into shelter home or to the nearest hospital) within twenty-four hours of the report, as may be prescribed.
- (6) The Special Juvenile Police Unit or local police shall, without unnecessary delay but within a period of twenty-four hours, report the matter to the Child Welfare Committee and the Special Court or where no Special Court has been designated, to the Court of Session, including need of the child for care and protection and steps taken in this regard.
- (7) No person shall incur any liability, whether civil or criminal, for giving the information in good faith for the purpose of sub-section (1).

#### **20. Obligation of media, studio and photographic facilities to report cases.**

Any personnel of the media or hotel or lodge or hospital or club or studio or photographic facilities, by whatever name called, irrespective of the number of persons employed therein, shall, on coming across any material or object which is sexually exploitative of the child (including pornographic, sexually-related or making obscene representation of a child or children) through the use of any medium, shall provide such information to the Special Juvenile Police Unit, or to the local police, as the case may be.

#### **21. Punishment for failure to report or record a case.-**

- (1) Any person, who fails to report the commission of an offence under sub-section (1) of section 19 or



section 20 or who fails to record such offence under sub-section (2) of section 19 shall be punished with imprisonment of either description which may extend to six months or with fine or with both.

- (2) Any person, being in-charge of any company or an institution (by whatever name called) who fails to report the commission of an offence under sub-section (1) of section 19 in respect of a subordinate under his control, shall be punished with imprisonment for a term which may extend to one year and with fine.
- (3) The provisions of sub-section (1) shall not apply to a child under this Act.

## **22. Punishment for false complaint or false information.-**

- (1) Any person, who makes false complaint or provides false information against any person, in respect of an offence committed under sections 3, 5, 7 and section 9, solely with the intention to humiliate, extort or threaten or defame him, shall be punished with imprisonment for a term which may extend to six months or with fine or with both.
- (2) Where a false complaint has been made or false information has been provided by a child, no punishment shall be imposed on such child.
- (3) Whoever, not being a child, makes a false complaint or provides false information against a child, knowing it to be false, thereby victimising such child in any of the offences under this Act, shall be punished with imprisonment which may extend to one year or with fine or with both.

